

1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 EQUAL EMPLOYMENT OPPORTUNITY
10 COMMISSION,

11 Plaintiff

12 v.

13 DOLLAR TREE DISTRIBUTION, INC.,

14 Defendant.

15 CIVIL ACTION NO.

16 COMPLAINT

17 NATURE OF THE ACTION

18 This is an action under Title I and Title V of the Americans with Disabilities Act of 1990,
19 as amended by the ADA Amendments Act of 2008, 42 U.S.C. § 12101 *et. seq.*, (“ADA” and
20 “ADAAA”) to correct unlawful employment practices on the basis of disability and to provide
21 appropriate relief to Brian Stromberg, who was adversely affected by such practices. The Equal
22 Employment Opportunity Commission (“EEOC”) alleges that Dollar Tree Distribution, Inc.
23 (“Defendant” or "DTDI") discriminated against Mr. Stromberg, a qualified individual with a
24 disability, when it: (1) denied him a reasonable accommodation of his physical disability during
25 his job interview with one of Defendant's supervisors on June 3, 2019 (“reasonable

1 accommodation"); and (2) did not hire him for a warehouse associate position on June 6, 2019
2 ("disparate treatment").

3 JURISDICTION AND VENUE

4 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
5 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the ADA,
6 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of
7 the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII"), and pursuant to
8 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.
9

10 2. The employment practices alleged to be unlawful were committed within the
11 jurisdiction of the United States District Court for the Western District of Washington.

12 PARTIES

13 3. Plaintiff, the Equal Employment Opportunity Commission, is the agency of the
14 United States of America charged with the administration, interpretation and enforcement of
15 Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA,
16 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42
17 U.S.C. 2000e-5(f)(1).
18

19 4. On information and belief, Defendant has continuously been doing business in the
20 State of Washington and has continuously had at least fifteen (15) employees at all relevant
21 times.
22

23 5. At all relevant times, Defendant has continuously been an employer engaged in an
24 industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5) and
25 Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections
701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, Defendant has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

ADMINISTRATIVE PROCEDURES

7. More than thirty (30) days prior to the institution of this lawsuit, Charging Party Brian Stromberg filed Charge No. 551-2019-02548 with the EEOC alleging violations of Title I of the ADA by DTDI. Defendant responded to Mr. Stromberg's EEOC charge. The EEOC issued Defendant a Letter of Determination on May 21, 2020 finding reasonable cause to believe the ADA was violated with regard to Mr. Stromberg, and invited Defendant to explore informal methods of conciliation to eliminate the unlawful employment practices and to provide appropriate relief. The EEOC then communicated with Defendant to provide Defendant the opportunity to remedy the discriminatory practices described in the EEOC's Letter of Determination. The EEOC was unable to secure a conciliation agreement from Defendant that was acceptable to the Commission. On September 2, 2020, the EEOC issued a Notice of Failure of Conciliation to Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

8. Since at least June 3, 2019, Defendant has engaged in unlawful employment practices in violation of Sections 102(a) and 102(b)(5) of Title I of the ADA, 42 U.S.C. §§ 12112(a) and 12112(b)(5). Defendant discriminated against Brian Stromberg, a qualified individual with a disability, when it: (1) failed to provide a reasonable accommodation of his permanent, severe hearing loss, during his job interview by a DTDI supervisor; and (2) rejected Mr. Stromberg for employment as a warehouse associate on June 6, 2019.

1 9. Mr. Stromberg is an individual with a disability within the meaning of the
2 ADA/ADAAA. He was born with a severe hearing impairment that worsened until he became
3 deaf in 2010, a condition expressly identified as a disability by 29 C.F.R. § 1630(2)(j)(3)(iii). As
4 a result of his permanent sensory impairment, Mr. Stromberg is substantially limited in the major
5 life activities of hearing and communicating with others.

6 10. Defendant had notice of Mr. Stromberg's disability because he indicated that he
7 had graduated from a high school for the deaf in his application documents that he submitted to
8 Defendant in or about June 2019, he wore visible hearing aids to his June 3, 2019 interview with
9 Defendant, he told Defendant's supervisor who interviewed him on June 3, 2019 interview that
10 he was deaf, and he attempted to discuss possible accommodations of his hearing impairment
11 while working as a warehouse associate during the same interview.

13 11. Mr. Stromberg is a qualified individual with a disability who could perform the
14 essential functions of Defendant's warehouse associate job with or without reasonable
15 accommodation, including but not limited to the fact that he satisfactorily performed the essential
16 functions of stocker and warehouse positions leading up to June 2019 when he applied to DTDI
17 for employment.

19 12. Despite having knowledge that Mr. Stromberg was deaf, Defendant's supervisor
20 interviewed him in a manner on June 3, 2019 that prevented Mr. Stromberg from fully
21 understanding the interview.

22 13. Defendant notified Mr. Stromberg by email on June 6, 2019 that he had not been
23 selected for a warehouse associate position.
24
25

1 14. During the period June 5-27, 2019, Defendant hired at least twenty (20) other
2 applicants as warehouse associates at the Ridgefield facility, none of whom appeared to have a
3 hearing impairment.

4 15. The effect of the practices complained of in paragraphs 8-14 above has been to
5 deprive Mr. Stromberg of equal employment opportunities and otherwise adversely affect his
6 status as an applicant or employee, because of his disability.
7

8 16. The unlawful employment practices complained of in paragraphs 8-14 were and
9 are intentional.
10

11 17. The unlawful employment practices complained of in paragraphs 8-14 above were
12 done with malice or with reckless indifference to the federally protected rights of Brian
13 Stromberg.
14

PRAAYER FOR RELIEF

15 Wherefore, the Commission respectfully requests that this Court:
16

17 A. Grant a permanent injunction enjoining Defendant, its officers, agents, successors,
18 assigns, and all persons in active concert or participation with it, from unlawfully failing to
19 provide equal employment opportunities to employees with disabilities and to accommodate
20 employees' disabilities, and any other employment practice which discriminates on the basis of
disability.
21

22 B. Order Defendant to institute and carry out policies, practices, and programs which
23 provide equal employment opportunities for qualified individuals with disabilities, and which
24 eradicate the effects of its past and present unlawful employment practices.
25

1 C. Order Defendant to make whole Brian Stromberg by providing appropriate back
2 pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief
3 necessary to eradicate the effects of its unlawful employment practices.

4 D. Order Defendant to make whole Brian Stromberg by providing compensation for
5 past and future pecuniary losses resulting from the unlawful employment practices described in
6 paragraphs 8-14 above, including past and future out-of-pocket losses, in amounts to be
7 determined at trial.

8 E. Order Defendant to make whole Brian Stromberg by providing compensation for
9 past and future non-pecuniary losses resulting from the unlawful practices complained of in
10 paragraphs 8-14 above, including emotional pain, suffering, inconvenience, loss of enjoyment of
11 life, and humiliation, in amounts to be determined at trial.

12 F. Order Defendant to pay Brian Stromberg punitive damages for its malicious and
13 reckless conduct, as described in paragraphs 8-14 above in amounts to be determined at trial.

14 G. Grant such further relief as the Court deems necessary and proper in the public
15 interest.

16 H. Award the Commission its costs of this action.

17 DATED this 28th day of September, 2020.

18 BY: /s/ Roberta L. Steele
19 Roberta L. Steele
20 Regional Attorney
21 EQUAL EMPLOYMENT OPPORTUNITY
22 COMMISSION
23 San Francisco District Office
24 450 Golden Gate Ave, 5th Floor West
25 P.O. Box 36025
San Francisco, CA 94102
Telephone (415) 522-3150
roberta.steele@eeoc.gov

SHARON FAST GUSTAFSON
General Counsel
ROBERT A. CANINO
Acting Deputy General Counsel
GWENDOLYN Y. REAMS
Associate General Counsel
Office of the General Counsel
131 "M" Street NE
Washington, D.C. 20507

1 BY: /s/ John F. Stanley
2 John F. Stanley
3 Supervisory Trial Attorney
4 EQUAL EMPLOYMENT OPPORTUNITY
5 COMMISSION
6 Seattle Field Office
7 909 First Avenue, Suite 400
8 Seattle, WA 98104-1061
9 Telephone (206) 220-6896
10 john.stanley@eeoc.gov
11

12 BY: /s/ Damien A. Lee
13 Damien A. Lee
14 Senior Trial Attorney
15 Seattle Field Office
16 909 1st Avenue, Suite 400
17 Seattle, Washington 98104-1061
18 Telephone (206) 576-3038
19 Facsimile (206) 220-6911
20 damien.lee@eeoc.gov
21
22
23
24
25

13 Attorneys for Plaintiff EEOC
14
15
16
17
18
19
20
21
22
23
24
25

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the
3 Court using the CM/ECF system.

4

5

6 DATED this 28th day of September, 2020

7 */s/ Rebecca Eaton*
8 REBECCA EATON
9 Paralegal Specialist
10 Equal Employment Opportunity Commission
11 909 First Ave., Suite 400
12 Seattle, Washington 98104
13 Telephone: 206-576-3028
14 Fax: 206-220-6911
15 Email: rebecca.eaton@eeoc.gov